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*The Commonwealth of Massachusetts*

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THE USE OF CONSULTANT SERVICES BY THE COMMONWEALTH:

REPORT OF THE JOINT COMMITTEE ON PUBLIC SERVICE

JULY 7, 1987



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"[It] is clear that persons compensated out of the "03" account are consultants and, as such, are NON-EMPLOYEES of the Commonwealth. The Executive Department, however, has not reached this conclusion. Its activities in the use of consultants indicate that it considers many consultants to be, for all intents and purposes, state employees. They are given promotions, step-rate increases, vacation time and sick leave. The net result is a series of abuses which have rendered the intent and purpose of the "03" account meaningless. No longer is it the vehicle whereby specialized services are obtained for a particular purpose for a limited specified period of time. It is now merely another method of hiring state employees."

From "Report Relative to Use of Consultants by State Agencies," by the Joint Committee on Post Audit and Oversight, January 15, 1973.

"Those who cannot remember the past are condemned to repeat it." George Santayana.

INTRODUCTION: BACKGROUND AND METHODOLOGY

On December 9 of 1986, a report of the State Auditor found, nearly 13 years after the publication of the Post Audit and Oversight report quoted above, that "03" consultants were regularly and systematically used as de facto state employees, contrary to both statutory legislative intent and regulatory executive mandate. The Auditor's report also noted a variety of other deficiencies and irregularities in the use of consultants by state appointing authorities, over and above the apparent disregard for the basic intended purpose of consultant services.



At that time, the Auditor recommended an investigation by the Legislature of the administration and control of the Commonwealth's "03" consultant system. The following report is based upon such an investigation; the legislative recommendations contained herein are an attempt to codify our findings and to ensure that, 13 years hence, some future report will not yet again reach the same conclusions rightly drawn by the Committee on Post Audit and Oversight in 1973, and by the State Auditor six months ago.

The investigation leading to this report was not intended to be an audit in any formal sense; the auditor's science is a precise and specific one, geared to determining the extent to which practice conforms with established prescribed form. Rather, our intent was to discern how consultant services were generally viewed and commonly utilized by executive branch personnel managers, and how these practices conformed with a normative definition of how consultant services should be employed within our over-all state workforce. Nor was this study premised on the notion that consultants are inherently undesirable or incompatible with sound personnel policy. Rather, we viewed consultancies as an appropriate way of filling the state's recurring need for certain specialized services of a limited duration, a mechanism which has both its strengths and weaknesses, and a personnel tool which clearly continues to have a proper place in any workforce, whether public or private.

Based on a review of agency spending records and specific contracts, as well as interviews with state managers and policy-makers, it is clear that consultants currently occupy an ill-defined, under-regulated, and overly-broad spot in our overall personnel network. At best, the current environment encourages an over-dependence on consultant services as an expedient substitute for "regular" state employees; at worst, current practice provides few of the safeguards necessary to prevent the abuses which uncontrolled service purchases inevitably entail.

### WHY CONSULTANTS:

#### SCHEDULING

The growth of the consultant workforce, beyond the legitimate use of consultants to provide specialized services of a limited duration, has been driven historically by a number of factors, including a desire to minimize the apparent size of the full-time state workforce, and an effort by state managers to avoid the civil service hiring system and the legislative position scheduling process. As a consequence of (if not necessarily as a deliberate reason for) the indiscriminate





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use of "03" services, state affirmative action and performance evaluation mechanisms and legislative spending and salary oversights routinely applied to regular state employees have failed to affect this significant segment of our state payroll.

The use of consultants to provide services comparable to those rendered by state employees is pre-dated by the use of so-called "temporary" or "02" employees; initially temporary employees were not counted against the legislatively fixed personnel caps, and were not included in reports of the state's "full-time" work-force. As a practical matter, "temporary" employees were temporary in name only, and funding for temporary positions has been routinely extended without limit. When the legislature began to approve separate caps for temporary employees, a new means of hiring workers beyond prescribed allotments was sought.

As one high-ranking executive branch official stated, **"agency personnel officers are like moles; they'll burrow and tunnel over, under, and around any obstacle that's put in their path."** For many state personnel officers, the use of consultants often represents the path of least resistance in performing basic personnel functions, and bears little relation to the need for specialized services. Indeed, most managers can readily identify their "real" consultants (ie, those persons hired as consultants for a limited duration to perform a specialized function not ordinarily performed by state workers) and their "other" consultants (ie, those persons paid through an "03" subsidiary, hired outside of the normal appointment and scheduling processes, but serving as de facto state employees).

Interestingly, most personnel managers we talked to suggested that the roadblocks to securing additional "01" or "02" position authorizations (and thus the "need" to use "03" personnel to accomplish legislatively mandated or agency chosen missions) were encountered most often at the level of the Executive Office of Administration and Finance. Increased position authorizations were so routinely denied at the A & F level, while so few restrictions were placed on the use of "03" monies that, in the words of one appointing authority, **"we just figured that was the game, so that's how we played it. If you wanted more bodies, you hired more consultants."** Only recently has the Administration, in response to budget reforms originating in the House Ways and Means Committee and the Auditor's 1986 report, begun to change the rules of this game.





## CIVIL SERVICE

Although few personnel officers would admit to using "03" hiring primarily as a means of avoiding civil service appointment procedures, most admitted that this was a cherished outcome of the "03" process. One manager noted approvingly that "03" hiring allowed him to employ essentially whomever he pleased, based on whatever criteria he deemed appropriate. The lack of collective bargaining or civil service firing safeguards was also noted by this manager as a plus. While this manager is, in fact, wholly dedicated to his agency's mission, the room for abuse by a less public spirited appointing authority is clear. Certainly, the civil service system is in need of significant reform, including an examination of those areas where legitimate managerial prerogatives may be frustrated by an over-emphasis on procedures at the expense of performance. However, the danger of abuse presented by an almost entirely unstructured hiring system far outweighs the difficulties of working within and working to improve the present civil service system.

## OTHER PROBLEMS: PERFORMANCE EVALUATION

Since 1981, a comprehensive performance evaluation system has been legislatively mandated for all personnel subject to the state's classification and pay plan. "03" workers, however, are not subject to these requirements, and the evaluation of consultant work-products varies tremendously. In some instances, the only "penalty" for a consultant who fails to meet his contract obligations is the granting of an expanded or extended agreement, committing still more of the taxpayers' dollars to pay for services not properly performed under their original terms. The absence of a consistent evaluation process for consultant services is a serious flaw in the "03" process.

## LACK OF COMPREHENSIVE PERSONNEL BUDGETING

Ill-defined in purpose, poorly-regulated in their use, consultant workers have traditionally been viewed as a "blank check" for appointing authorities who have not been required to justify their use with nearly the same degree of precision as is required of "01" and "02" state workers. Recent legislative mandates have required centralized A & F contract approval (in addition to the procedural, non-substantive review conducted by the Comptroller), thereby bringing the decision to contract for services somewhat more within the



over-all policy framework of our state personnel system. However, little pre-appropriation agency planning is statutorily required in the budgeting of "03" monies, and, once appropriated, "03" funds are still viewed as a relatively unrestricted, unstructured and unsupervised source of personnel resources. Nowhere is this more apparent than in the use of so-called "blanket contracts," under which an agency is authorized to contract with an unlimited number of individuals or agencies for services within a specified field and under a stated spending cap; frequently the services ultimately contracted for bear little semblance to the original contract authorization. Given the inherently limited legislative review of "03" spending, and the higher degree of agency flexibility in how "03" services are structured, the lack of pre-appropriation "03" spending plans is disturbing.

### COMPETITIVE BIDDING

The lack of any statutory bid requirement, and the inadequacy of A & F's current bid guidelines, is yet another shortcoming in the "03" procurement process. "By contrast," as the Inspector General pointed out to us, "the Ward Commission reforms since 1981 have provided for the fair and open selection of designers on State building projects... The comprehensive statutes governing designer selection have virtually eliminated the cronyism the Ward Commission uncovered in the use of state consultants in that one area. Obviously, the State would be well served by a comprehensive statute ensuring the fair and open selection of consultants in other areas." We agree. Both economy and equity demand an improved and strengthened bid process for the contracting of "03" services.

### MISCELLANEOUS

In the course of our study, a number of other frequent abuses of the existing "03" system become apparent, underscoring the need not only to strengthen the current statutes, but to somehow instill as well an awareness that executive adherence to legislative mandate is not a matter of discretion, but one of constitutional duty. The use of consultants in supervisory positions (in the face of a clear statutory prohibition); the continuation of contracts well beyond the one-year time limit called for in A & F regulations (including, in at least one instance, the on-going staffing of an entire state division through "03" contract personnel) bid splitting to avoid publication requirements; the payments of rates above centrally approved levels; the utilization of inappropriate consultancies as a "holding-tank" pending the creation of authorized "01" or "02" positions; all of these are indicative of a casual disregard for applicable statutes





and administrative guidelines. For the most part, this failure to follow legal procedures is motivated not by venal patronage but simple laziness, or by misguided belief in the managerial prerogative to "get the job done" in the easiest way possible. Yet, an executive which thinks itself above the law in its quest to do good is, in its own way, as dangerous as a group of officials who evade the law for personal gain. Both represent a violation of the public trust they are sworn to uphold, and both are the predictable by-product of an entrenched bureaucracy.

### RECOMMENDATIONS

Many of the recommendations we propose represent codifications of recently adopted administrative practice. The process of converting to state positions approximately 1200 "03"'s serving as de facto state employees, a process begun by the House Committee on Ways and Means over a year ago, has generated a newly-found adherence to the legislative intent noted by the Post Audit and Oversight Committee in 1973. A & F has also begun to revise its own regulations for implementing the statutory mandates regarding the use of consultants, as set forth in Section 29A of Chapter 29, MGL, and has recently appointed a single officer within A & F to approve or reject all executive branch contracts. While these are, to be sure, welcome developments, they do not in any way guarantee that either the letter or the spirit of the statutes governing consultant use will still be followed when the glare of public scrutiny has faded. For this reason, we believe a reworking of the current statutes is called for, in an attempt to ensure that these laws will allow no ambiguity in their future construction by the executive branch.

- ° To bring consultants within the framework of our overall personnel planning process (and to help end the use of consultants as gratuitous "add-on" state employee substitutes) we recommend that the number of proposed full-time equivalent consultant workers be included by each state agency in their budget requests for the coming year, together with an explanation for why these workers are needed. This provision will help focus both executive and legislative attention on each agency's over-all personnel needs on a regular basis and will allow an early opportunity for determining which agency functions will require specialized services, and which functions can and should be performed by regular state workers. To ensure that these budget allocations are generally adhered to, we also recommend that monies appropriated for other purposes be made available for the purchase of consultant services only with the approval of the House and Senate Committees on Ways and Means.





- ° To improve the administration of consultant contracts once funds have been appropriated, we recommend the incorporation of a number of safeguards. Consultant contract rates, currently governed only by regulation, should be statutorily required to conform with classification and pay standards applied to other state workers. To ensure that consultant contracts are awarded fairly and under terms most advantageous to the Commonwealth, we recommend the mandatory posting of all contracts and, wherever practicable, the selection of contractors through a competitive bid process. Further, the selection of consultants should adhere in any event to prevailing affirmative action and equal employment policies of the Commonwealth.
- ° To clarify the true purposes for which consultant services are to be procured, we recommend that requests for contract approval include a descriptive number code, denoting the type of service to be performed, and an explanation of why such services could not be performed by state classified positions. The unavailability of authorized state employee positions would not be an acceptable justification for entering into a consultant contract. Further, no contract could provide for services under more than one service code.
- ° To improve the general approval, review, and administration of service contracts, we recommend a number of initiatives, several of which have appeared in recent years as outside sections to annual appropriation acts. We propose that no contract take effect and no payment for services be made without the prior approval of the Secretary of Administration or, in the case of Higher Education contracts, the Chancellor of the Board of Regents. These approvals would be in addition to the current approval required of the Comptroller, who would further be required to approve a separate invoice for each contract, and to separately record the name and other identifying data for each consultant, thereby providing a more complete and accurate audit trail.
- ° The relatively common practice of extending and expanding contracts beyond their original scope would, under our proposal, be subjected to the same level of scrutiny as an original contract request, and would further require a certification that services already contracted have been fully and satisfactorily performed. Each contracting agency would also be required to institute contract performance evaluation standards, and to take specific measures to remedy unsatisfactory performance. The regulatory time-limit of twelve months on any one contract would also be incorporated in statute.



- Building on the A & F reporting requirements recently enacted by the General Court, we recommend that contractors be further identified by their primary place of business (**one contractor receiving more than thirteen million dollars for personnel services for the 1986 and 1987 fiscal years is based outside the Commonwealth**), and that the number of workers and the rate of pay for each worker be identified under any blanket authorization.
- Finally, we suggest that contractors be prohibited from expending state funds on unionizing or anti-union activities, thereby ensuring that "03" monies will be expended on the direct services for which they were intended. We also clarify the commonly acknowledged but not always adhered to tenet that consultants, as non-employees of the Commonwealth, should be excluded from participation in either the state's Group Insurance or Public Employee Retirement Systems.

### BEYOND THE STATUTE

A number of additional recommendations, while beyond the scope of statutory change, are nonetheless worthy of mention here. One area where the legislature has permitted and even encouraged the executive's use of inappropriate consultant services is in the creation of new agencies or divisions, where consultant hiring has been viewed as a more flexible, timely alternative to the somewhat restrictive and lengthy scheduling process. Recently, the Ways and Means Committees have begun to reassess this practice. We would suggest that start-up personnel should be scheduled as either excess quota or temporary employees, except in those few instances where certain start-up workers are to provide specialized functions which are not likely to be needed in the agency's on-going operations. These options will allow for the more rapid hiring of needed workers than the full-time employee scheduling process, while avoiding the creation of unwarranted and inappropriate consultancies.

The current consultant workforce review should continue, to determine where consultancies should be renewed, where they should be terminated or consolidated, and where regular state positions should be created to perform services now paid from an "03" subsidiary. The Budget Bureau has devised a comprehensive protocol for reviewing existing contracts; it should be consistently adhered to by all state appointing authorities.





In an effort to address the confused and at times self-contradictory personnel policies and practices of the executive branch, the Committee on Public Service and the House Committee on Ways and Means have recommended, and the full legislature has approved in the fiscal year 1988 budget, the creation of an Undersecretariat of Human Resource Administration within the Executive Office of Administration and Finance. In addition to his other general responsibilities for the coordination and direction of the Commonwealth's numerous personnel agencies, the Undersecretary will have a specific mandate for the administration of "03" services. The preparation of quarterly consultant inventories, the prior approval of all executive office contract requests, and the ensuring of compliance by executive branch agencies with the laws governing consultant use are all explicitly enumerated within the Undersecretary's duties. Placing these functions within the personnel-focused Human Resource undersecretariat, rather than under the more multi-operational and hence diffuse Executive Office of Administration and Finance, will increase the likelihood that the use of consultancies will be viewed from the perspective of sound personnel and fiscal practice, and in conformance with all applicable statutes and regulations.

The object codes which are used to identify specific fields of "03" services should be updated and refined. Far too many of the existing codes (set forth in the Expenditure Code Manual established by the Ways and Means Committees) are no longer reflective of services commonly procured, and agency descriptions too often fall within the catch-all "other services" category. We recommend the continued review of these issues by the Comptroller and the Committees on Ways and Means.

The civil service and scheduling systems, two hiring controls which state personnel managers have sought to avoid through "03" hiring, are both in need of review and revision. We have already begun this process, and look forward to working with the Ways and Means Committees and other affected parties. However, neither civil service nor scheduling should be simply discarded; both provide much-needed checks on the executive's proven willingness to side-step other statutory obligations. The task before us is to find an appropriate balance between legislative oversight and managerial prerogative, between excessive General Court involvement and naive trust in the good will of the administration. Resolving this tension, which is a fundamental theme of our separate but equal branches of government, will not be easy. Yet it is essential that such a resolution be found if our personnel system is to move into the twenty-first century.



## **AN ACT FURTHER REGULATING THE USE OF CONSULTANT SERVICES.**

### **SECTION-BY-SECTION ANALYSIS.**

**SECTION 1.** Amends Section 3 of Chapter 29, MGL, to require agency heads to include number of full-time equivalent workers currently paid out of each object code of "03" and "07" subsidiaries, and number of FTE "03" and "07" workers requested and justification therefor for up-coming fiscal year, as part of agencies' budget requests.

**SECTION 2.** Amends Section 6 of Chapter 29, to require Governor's operating budget to include number of full-time equivalent workers currently paid out of each object code of "03" and "07" subsidiaries and number of FTE "03" and "07" workers proposed and justification therefor for up-coming fiscal year.

**SECTION 3.** Amends Section 29 of Chapter 29 to prohibit interchange of funds from other subsidiary accounts into "03" or "07" subsidiary accounts, except with prior written approval of Ways and Means Committees.

**SECTION 4.** Rewrites Section 29A of Chapter 29. Provides that rates payable to consultants are to be consistent with state classification and pay plan, as determined by personnel administrator, except where competitively bid rate applies. All executive agencies, including higher education, to be subject to Administration and Finance regulations for consultant use.





Requires public posting of all contracts, competitive bid selection where practicable and adherence to affirmative action and equal employment opportunity policies. Requires agency requesting contract to identify object code under which services fall, and to explain why such services could not be performed by state classified positions. Limits contracts to 12 months, and provides that no contract is to be extended or expanded unless contracted services have been fully and satisfactorily performed. Requires contracts to clarify rights of consultant, and means by which contracting agency will monitor consultant's performance, and measures to be taken in the event of unsatisfactory performance. Limits contracts to a single object code. Provides that contracts must be approved by individual Cabinet Secretaries, and by Secretary of Administration and Finance and Chancellor of Higher Education, as applicable, and in all events by Comptroller. Comptroller required to approve each contract and standard invoice therefor separately and record name of consultant before any payment is made. "03" and "07" funds not to be used for pro- or anti-union activities. Current unavailability of state positions not to be permissible reason for hiring consultant. Contracts to state whether contractor's primary place of business is within Commonwealth. Consultants prohibited from receiving state Group Insurance benefits, and excluded from membership in state Employees' Retirement System. Consultants not to receive any credit toward state retirement benefits for period of consultancy.







# The Commonwealth of Massachusetts

IN THE YEAR ONE THOUSAND NINE HUNDRED AND EIGHTY-SEVEN.

## AN ACT FURTHER REGULATING THE USE OF CONSULTANT SERVICES BY THE COMMONWEALTH.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. The first paragraph of section 3 of chapter 29 of the General Laws, as most recently amended by section 7 of chapter 488 of the Acts of 1986, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:-

Every such officer shall also submit to the budget director a statement showing in detail the number of permanent, temporary, and part-time positions authorized and the number of full-time equivalent workers paid out of "03" and "07" subsidiary accounts, displayed by object code, for the state agency in his charge and the volume of work performed in the latest complete fiscal year, and justifying his request for permanent, temporary and part-time positions and said full-time equivalent workers in the ensuing fiscal year in relation to the volume of work expected to be performed by the state agency.

NOTE. — Use ONE side of paper ONLY. DOUBLE SPACE. Insert additional leaves, if necessary.



SECTION 2. Section 6 of chapter 29 as most recently amended by section 10 of said chapter 488, is hereby further amended by striking out the last sentence and inserting in place thereof the following sentence:-

The operating budget shall indicate the number of positions proposed to be authorized for and the number of full-time equivalent workers to be paid out of "03" and "07" subsidiary accounts, displayed by object code, by each state agency or such other public instrumentality for the ensuing fiscal year, the number of positions and such full-time equivalent workers for each state agency in the current and ensuing fiscal years and such other information as may be held to explain the anticipated results of the proposed expenditures.

SECTION 3. The first paragraph of section 29 of chapter 29 of the General Laws, as most recently amended by section 18 of chapter 488 of the Acts of 1986, is hereby further amended by inserting after the third sentence the following sentence:--

No such interchange shall be made into the "03" or "07" subsidiary accounts except with the prior written approval of the house and senate committees on ways and means.

SECTION 4. Said chapter 29 is hereby further amended by striking out section 29A, as most recently amended by section 19 of said chapter 488, and inserting in place thereof the following section:-

SECTION 29A. The commissioner of administration shall make, and may from time to time amend, rules and regulations governing the use of consultants in all departments, offices, boards,





agencies, commissions and institutions, including the office of the board of regents of higher education and the various institutions of the system of higher education. Such rules and regulations shall establish, after recommendations by the personnel administrator, the rate of compensation of such services and shall provide for the prior approval by said administrator of the rate for any such service for which no rate has previously been established by such regulations, provided that such rates shall be consistent with the methodology and economic assumptions employed in the state classification and pay plan established under section forty-five of chapter thirty, except where a different rate approved by the personnel administrator has been established through a competitive bid process. Such rules and regulations shall be open to public inspection in the department of personnel administration, and copies thereof shall be available to any person upon request. Such rules and regulations shall not be subject to the provisions of chapter thirty A. Such rules shall include a procedure for the selection of consultants, which shall provide for the public posting of all contracts, and for selections to be made in accordance with affirmative action and equal employment opportunity policies of the commonwealth. Any agent of the commonwealth wishing to procure consultant services shall, wherever required by law and otherwise wherever practicable, do so through an open competitive bid process. The procuring agent shall give public notice of the invitation for bids a reasonable time prior to the opening of bids. Such notice shall indicate where, when, and for how long



invitations for bids may be obtained, describe the service to be provided, the terms by which the bids will be judged, and all other applicable contractual terms and conditions. Such notice shall be publicly posted in the office of the agency wishing to procure such services for at least two weeks prior to the close of bids, and shall be published at least once in two newspapers of general circulation within the commonwealth, and in any publications established by the secretary of state for the advertisement of such procurements. Bids shall be evaluated solely on the criteria set forth in the invitation for bids, and any contract awarded to a bidder other than the lowest bidder shall be accompanied by a written explanation of the reasons for such award. Any sole source contract, so called, may be authorized only in conformance with law and only where the contracting agent has certified, subject to the approval of the commissioner of administration or the said chancellor, as applicable, that only one practicable source for the required service exists. Such rules and regulations shall also include, but need not be limited to the following requirements, none of which shall be waived for the contracting of consultant services: (1) a request therefor on a form prescribed by the commissioner of administration, specifically setting forth the need for such services, the object code within which such services fall in the expenditure code manual approved by the house and senate committees on ways and means, and an explanation of why such services could not be performed by state classified positions; (2) the period of time not to exceed twelve months





for which the services are to be engaged and the scope of work to be done and such other information as shall be required to establish the maximum limit of the commonwealth's obligation for the services, provided that no such contract shall be amended to increase the commonwealth's obligation or renewed except in accordance with this section and upon a certification that the services contracted for have been fully and satisfactorily performed, and that such amendment or renewal is more advantageous to the interests of the commonwealth than alternate means of procuring comparable services; (3) a written contract specifically setting forth the duties and responsibilities of the parties, the rights of consultants under this section, the procedures by which the contracting department, office, agency, board, commission, or institution shall monitor the performance by the consultant of his duties and responsibilities under the contract and the specific measures to be taken if the consultant does not fully and satisfactorily perform said duties and responsibilities; (4) a resume setting forth the qualifications of the proposed consultant as they relate to the terms of the aforementioned contract; (5) a disclosure statement setting forth any other income derived by the proposed consultant from the commonwealth or any of its political subdivisions; (6) a statement setting forth the names and addresses of all persons with any interest in the said contract. No single contract shall provide for services under more than one object code in said expenditure code manual. No department, office, agency, board, commission or institution within any of the executive





offices established by chapter six A and seven shall contract for the provisions of any such services nor amend or renew any existing contract without the prior written approval of such contract by the secretary having charge of such executive office and of the commissioner of administration, and provided further that no such contract, amendment or renewal shall take effect for any institution or department of the system of higher education without the prior written approval of the chancellor of the board of regents of higher education. No payment shall be made to any consultant for any services provided prior to the date upon which the form requesting such services as required by clause (1) has been approved by the commissioner of administration or the said chancellor, as applicable and by the comptroller, provided that each such contract and a standard invoice therefor shall be approved separately by the comptroller and the name and other identifying data of the consultant shall be entered on the records of the comptroller before any payment is made therefor. No private vendor receiving monies payable from an "03" or "07" subsidiary account to provide services shall use state funds paid specifically for such services pursuant to any such contract as compensation for employees, consultants or firms where the primary responsibility of said employees, consultants or firms is either directly or indirectly to persuade employees of said vendor to support or oppose unionization. As used in this section the word "consultant" shall mean any person who, as a non-employee of the commonwealth, gives advice or service regarding matters in the field of his



knowledge, or training and whose compensation is payable from a subsidiary account coded under "03" in the expenditure code manual. No person employed by the commonwealth as a consultant so-called shall directly or indirectly supervise another temporary or permanent employee of the commonwealth. Consultant contracts, whether written with organizations or individuals, shall not be used as substitutes for state positions, nor shall the current unavailability of state positions be a permissible reason for the use of consultant contracts under clause (1). The commissioner shall submit quarterly to the house and senate committees on ways and means and the house and senate committees on post audit and oversight a report which identifies all existing consultant contracts by agency, for all accounts established or maintained by the comptroller including but not limited to appropriation accounts for ordinary maintenance, for federal grants, bond revenue accounts, revolving accounts, retained revenue accounts, and trust accounts. Said report shall identify each contract; its duration; its maximum dollar obligation; the name of the contractor; whether the contractor's primary place of business is within the commonwealth; the specific service to be performed by the contractor; and, in the case of a single contract requiring services to be performed by more than one individual, the number of full-time equivalent workers to be paid pursuant to such contract, and the rates of pay for all such workers. No consultant shall receive benefits under chapter thirty-two A, nor shall any such consultant be a member of the state employees' retirement system, nor shall any credit be given for service as a consultant for any person becoming a member of said system.







